

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
David Dakin Iorwerth WRIGHT et al.)	Group Art Unit: 1616
)	
Application No.: 10/522,527)	Examiner: Soroush, Ali
)	
Filed: October 10, 2006)	
)	
For: THERAPEUTIC FOAM)	Confirmation No.: 7497
)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

SUPPLEMENTAL RESPONSE TO OFFICE ACTION

In reply to the Office Action mailed November 1, 2007, and further to the response to office action filed on May 1, 2008, Applicants respectfully request consideration of the following remarks and attached declaration.

REMARKS

Claims 1-26 and 28-39 are pending. No new amendments are contained herein.

Applicants herein submit a second declaration by Dr. Janet Rush in further support of their arguments in Applicants response to office action dated May 1, 2008. As discussed previously, Dr. Rush's April 29, 2008, declaration described the then-current results of a phase II safety study of the claimed foam. See Response to Office Action dated May 1, 2008, *Rush* declaration, attachment A.

Specifically, that declaration reported that of the 87 patients administered the claimed foam (new Varisolve® foam, less than 0.8% nitrogen), 42 of which had bubbles detected in the middle cerebral artery¹, none displayed visual disturbances or neurological symptoms within the first 24 hours after treatment. See *Id.* at ¶13.

Dr. Rush's June 23, 2008, declaration, attachment A to this supplemental response, updates the results from the ongoing study. See Rush declaration, attachment A, dated June 23, 2008. Specifically, of the 106 patients administered the claimed foam (new Varisolve® foam, less than 0.8% nitrogen), 60 of whom had bubbles detected in the MCA, there was only one patient reporting relevant symptoms within the first 24 hours after treatment. See *Id.* at ¶3. This patient reported experiencing "twinkly lights" lasting a few seconds, a symptom of no apparent medical importance, while the patient's visual field testing, neurological examination, and MRI were all normal. See *Id.*

¹ Bubbles detected in the middle cerebral artery suggests a right to left cardiac shunt, which is thought to allow bubbles to enter the brain.

In view of the foregoing remarks, Applicants respectfully request reconsideration of claims 1-26, and 28-39 and the timely allowance of the pending claims.

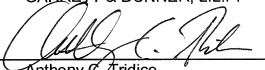
Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 25, 2008

By:


Anthony C. Tridico
Reg. No. 45,958

Attachment:

A. *Rush, J.*, declaration, June 23, 2008.